



OSU Federal
Your Community Credit Union®

May 21, 2010

Ms. Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: Comments on Advanced Notice of Proposed Rulemaking for 12 CFR Part 723.

Dear Ms. Rupp:

OSU Federal appreciates this opportunity to provide comments to the National Credit Union Administration (NCUA) regarding its advanced notice of proposed rulemaking (ANPR) related to proposed rule 742, Regulatory Flexibility Program.

NCUA has requested feedback specific to the following components of the proposed rule:

723 – Security Requirements on MBLs for RegFlex credit unions.

As a general statement, credit unions operate at a disadvantage when it comes to loan structure limitations on business loans. These limitations affect our ability to lend to qualified business applicants. Our nation's small business owners need more access to capital, not less.

Historically, RegFlex credit unions have been exempted from the requirement to obtain the personal liability and guarantees of the borrower's principals as stated in 12 CFR 723.7 (b). The proposed rule would rescind the exemption thereby making RegFlex credit unions subject to the existing regulation. We are opposed to the proposed rule based on the following:

1. The rationale used to support this rule consists of data reflecting the increase in historical MBL delinquency and charge-off rates in credit unions over the last three years; yet no effort has been made to show a causal link between increased MBL delinquencies and charge-offs with loans that do not carry guarantees from principal owners. Further, commercial bank delinquency and charge-off trends over the last three years far surpass that of credit unions, yet they are not and never have been regulated to obtain guarantees from principal owners. This onerous change would

further place current RegFlex credit unions at a disadvantage in relation to our bank peers.

2. The definition of "principals" is further defined in a legal opinion letter, dated Sept. 21, 2000, as one or more natural persons comprising a majority interest in the borrowing entity. Based on the regulation, from which RegFlex credit unions are currently exempted, there are many scenarios that would preclude credit unions from competing for good business within their own membership. Take for instance a sub chapter S-Corporation with 12 owners, one with 45% ownership and eleven, each with 5% ownership. Per the current regulation, unlimited guarantees would need to be obtained from at least the eleven 5% owners or from the 45% owner plus two 5% owners; which presents a dilemma for those with small ownership interests. What is the consideration for their personal guarantee with only a 5% stake? Banks still have the flexibility to obtain or forego guarantees from the eleven 5% owners. With the rule change in place, if RegFlex credit unions wanted to seriously compete for that business, they would have to obtain a waiver. This would be yet another hoop to jump through in order to achieve parity in the marketplace.
3. As stated above, there are currently no regulatory mandates for banks to obtain personal guarantees from individual owners of non-person borrowers. Many banks have internal policies that require some level of personal guarantees from major principal owners; however it is an internal policy, not a regulatory mandate.

In summary, we believe that rescinding the RegFlex provision pertaining to personal guarantees is unnecessary. There has been no evidence presented to demonstrate that increased delinquency and charge-off trends are being directly driven by loans that lack personal guarantees. Common sense dictates that as a general rule, guarantees should be obtained from principal owners in most cases. However, to mandate it by regulation creates a one size fits all approach to business lending. America's small businesses need access to capital, not additional roadblocks to further inhibit growth and recovery.

Sincerely,

A handwritten signature in blue ink that reads "Debra Riggle". The signature is fluid and cursive, with the first name "Debra" and last name "Riggle" clearly distinguishable.

Debra Riggle
Vice President Financial Services

cc: Credit Union National Association
Credit Union Association of Oregon